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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,586	11/17/2000	Peter Worthington Hamilton	5922R2C	5737

27752 7590 11/16/2005

THE PROCTER & GAMBLE COMPANY  
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EXAMINER

CHANG, VICTOR S

ART UNIT PAPER NUMBER

1771

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/715,586

**Applicant(s)**

WORTHINGTON HAMILTON ET AL.

**Examiner**

Victor S. Chang

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,9-12,14-18,41,47-52,54-58,66,81,95,97-103 and 105-108 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9-12,14-18,41,47-52,54-58,66,81,95,97-103 and 105-108 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Introduction*

1. The Examiner has carefully considered Applicants' remarks filed on 9/30/2005.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Rejections not maintained are withdrawn.

### *Rejections Based on Prior Art*

4. Claims 1, 9-11, 14-18, 41, 47-51, 54-58, 66, 81, 95, 97--99, 101-103 and 105-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilbur (US 2338749) in view of Reed et al. (US 4054697), generally as set forth in section 4 of Office action dated 6/30/2005, together with the following response to argument.

Referring to amendments to independent claims 41 and 95 dated 6/6/2005 reciting, *inter alia*, "wherein said active side is activatable by a tensile force", Applicants' argument "the limitation ... is not a method step but a required property ... The claim does not require activation ..." has been carefully considered, and appears to be persuasive. As such, the Examiner withdraws the reasoning of rejection "the method step of use ... bears no patentable weight in an article claim" (Office action dated 6/30/2005, page 3). Nevertheless, the Examiner repeats that it is not seen how such a limitation affects the structure and/or composition of the instant invention. As such, in the absence of evidence to the contrary, it is the Examiner's position that since Wilbur in

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view of Reed <sup>continues</sup> ~~remains~~ to render the structure of instantly claimed invention obvious as claimed, in particular Reed also expressly teaches that the coating of particles have the ability to be deformed under a load (i.e., adhesive layer is *activatable*, see abstract), their combined teachings read on the added limitation as claimed.

With respect to Applicants' argument "The cited references do not provide that the material described is activatable by the application of a tensile force to the material ... Applicants submit that a tensile force applied to the sheet of Reed – and therefore acting in a direction normal to the attachment of the coating of particles to the sheet would not subject the particles to a load ... The references teach the application of a compressive force ...", the Examiner notes, first, that Applicants have failed to provide any evidence that Reed's adhesive layer cannot be activatable by a tensile force, and reminds applicants that attorney's argument cannot take place of evidence. Second, the Examiner repeats that, in the absence to the contrary, since Wilbur in view of Reed renders the structure of instantly claimed invention obvious as claimed, and Reed also expressly teaches that the adhesive layer is activatable under a load, which encompasses both compressive and tensile forces, the Examiner asserts that Applicants' argument is without merit to the present rejection.

### ***Conclusion***

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S. Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Victor S Chang  
Examiner  
Art Unit 1771

11/1/2005



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SUPERVISORY PATENT EXAMINER  
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